

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1-38, 42 and 43 are requested to be cancelled.

Claim 39 is currently being amended.

Claims 44-82 are being withdrawn.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 39-41 (3 claims) are now pending in this application.

On page 2, paragraphs 1 and 2, the Examiner has restated his restriction requirement on new grounds for restriction. The Examiner has grouped the claims as follows:

- I Claims 39-41, drawn to a method for transferring information.
- II Claims 44-82, drawn to an electric vehicle.

The Examiner believes that the inventions in Group I and II are related as a combination and subcombination. The Examiner states that "the combination as claimed does not require the particulars of the subcombination as claimed because the method of transferring the data to potential customers over the internet does not require the specific details of the electric vehicle."

In response, Applicants provisionally elect claim Group I (claims 39-41) to prosecute and withdraw Group II claims (claims 44-82), but Applicants reserve the right to file a continuation application with respect to the withdrawn claims.

In response to the Examiner's statement concerning the relationship with Group I and II, Applicants respectfully traverse the Examiner's statement that the transferring of data does not require the specific details of the electric vehicle. Applicants submit that the first phrase of independent claim 39, "obtaining information . . ." requires that the information be for the electronic traction vehicle and enumerates specific features of the vehicle that is included in the information that is to be transmitted. Independent claim 44 which is drawn to the electronic traction vehicle includes all of the elements identified in the first phrase of claim 39 in describing the electronic traction vehicle. Therefore, Applicants submit that the information to be transferred over the internet as described and claimed in independent claim 39 does require the specific information about an electric vehicle and not generically applicable to any product as suggested by the Examiner. Accordingly, the combination and subcombination of inventions as identified by the Examiner are related and restriction should not be required.

Notwithstanding the above, however, Applicants have elected to proceed with prosecuting Group I.

On page 3, paragraph 3 of the Office Action, the Examiner has rejected claims 39-41 under 35 U.S.C. §112, second paragraph. The Examiner identifies a grammatical error. In response, Applicants have amended independent claim 39 by deleting the word "to" in the last phrase of the claim. The phrase now reads "transmitting the information from the terminal to the internet through an internet server".

Applicants believe that independent claim 39 and dependent claims 40 and 41 which depend from claim 39, now particularly point out and distinctly claim the subject matter which Applicants regard as the invention and respectfully request that the Examiner withdraw his rejection of claims 39-41 under 35 U.S.C. §112, second paragraph.

On page 4, paragraph 4 of the Office Action, the Examiner has rejected claims 39-41 under 35 U.S.C. §103(a) as being unpatentable over Pulliam, et al (USPN: 6,609,108). Pulliam discloses a communication schema of online system and method for ordering consumer product having specific configurations. (See title) The Examiner believes that

Pulliam teaches the method of transferring data over the internet but does not explicitly teach an electronic traction vehicle. The Examiner goes on to state that “the method described by Pulliam is generic and applicable to any and all vehicles, regardless of model, type or specific features. One ordinarily skilled in the art at the time of the invention would know how to modify the method of Pulliam in order to represent the specific attributes of the particular vehicle including an electronic vehicle”.

In response, Applicants respectfully traverse the Examiner’s characterization of Pulliam as being generic and applicable to any and all vehicles.

Applicants submit that Pulliam, rather than describing a generic system applicable to any and all vehicles as characterized by the Examiner, is directed specifically to consumer products and particularly automobiles (See title of Pulliam, Col. 1, lines 54-55; Col. 2, line 58 and Col. 6, line 5). Throughout the disclosure of Pulliam, Pulliam refers to consumer products and particularly automobiles and discusses this system wherein “a consumer is provided real time information”. Further, in the disclosure, Pulliam interchanges the term “customer” and “consumer” when discussing his invention (See Col. 6, line 44). Accordingly, Applicants submit that Pulliam is not describing or teaching a generic system applicable to any vehicles but rather is describing and claiming the system for consumer products, specifically automobiles.

The term “consumer” and the phrase “consumer product” typically refers to a non-business or non-industrial environment. Applicants submit that one ordinarily skilled in the art when hearing the word “consumer” or the phrase “consumer product” would not think of an industrial or business application. Further, the dictionary definition of consumer provides one that consumes, especially for direct use or ownership rather than for business. Therefore, Pulliam discloses and teaches a consumer orientated system. There is no teaching or suggestion in Pulliam that the system can be used for non-consumer vehicles.

In contrast to Pulliam, the present application discloses and claims a system for obtaining information of an electronic traction vehicle and specifically of the truck type of vehicle. Applicants have amended independent claim 39 to provide that the information is

"of a truck type of" electronic traction vehicle. Support for this amendment can be found in the last paragraph of the detailed description in the present application as originally filed. The specific type of truck is a fire truck or a military application which typically are heavy duty vehicles that can be used on or off road. The concrete hauling or heavy material hauling vehicles would also fall within this category. Applicants submit that one ordinarily skilled in the art of fire trucks, military trucks or other type of heavy duty truck type vehicles would not be compelled to look to Pulliam since Pulliam is directed to consumer products and specifically automobiles.

Applicants submit that it is not enough to point out a prior art reference that discloses the same structure as claimed by the Applicants and assume that a resulting property, in this case, information relating to a truck type electronic traction vehicle, will be present in the prior art reference. Such inherency may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient. It has to be shown that the prior art contains a teaching, suggestion or motivation to provide in this case, a data transfer system for a truck type electronic traction vehicle. (See present independent claim 1.) Pulliam does not have such teaching or suggestion.

Further, Applicants submit that the Examiner is relying on hindsight to make the above obviousness rejection of the cited claims under 35 U.S.C. §103(a). Applicants believe that the Examiner is basing his rejections on the mere identification in the prior art of individual components of claimed limitations in the present application. The Examiner has not made particular findings as to the reason a skilled artisan, with no knowledge of the claimed invention would have selected the components for a combination in the matter claimed in the present application, particularly the list of elements of the electronic vehicle listed in the first clause of claim 39.

Applicants submit that, as stated above, the claims as amended are patentably distinct from the prior art cited by the Examiner that one ordinarily skilled in the art would not be compelled to combine the elements cited by the Examiner to obtain that which is disclosed and claimed in the present application. Likewise, dependent claims 40 and 41, which depend directly from independent claim 39, as amended, likewise are not obvious under Pulliam.

Accordingly, Applicants respectfully request that the Examiner withdraw his rejection of claims 39-41, as amended, under 35 U.S.C. §103(a).

The prior art made of record but not relied upon has been reviewed.

Applicants have attempted to respond to the several rejections of the claims to the extent necessary to correct any ambiguity cited by the Examiner and to address the prior art cited by the Examiner but with the intent of not limiting the scope of the invention protection accorded by the patent laws and these claims any further than absolutely necessary. It is respectfully submitted that each outstanding rejection has now been overcome and that each claim is in condition for allowance. Reconsideration is respectfully requested.

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

Date 01-14-05

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